

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Richard Caban

Write the full name of each plaintiff.

19 CV 6205

(Include case number if one has been assigned)

-against-

Appeals Committee of the board of
the New York District Council of
Carpenters Pension Fund

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

COMPLAINT

Do you want a jury trial?

☒ Yes ☐ No

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NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- ☐ Federal Question
- ☐ Diversity of Citizenship

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, Richard Caban, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of _____

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of the State of _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

<u>Richard</u>		<u>Caban</u>
First Name	Middle Initial	Last Name
<u>84 Madison Street</u>		
Street Address		
<u>Lynbrook</u>	<u>NY</u>	<u>11563</u>
County, City	State	Zip Code
<u></u>		<u></u>
Telephone Number		Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1: Monica Schmidt
 First Name Last Name
Appeals Committee
 Current Job Title (or other identifying information)
395 Hudson Street
 Current Work Address (or other address where defendant may be served)
Manhattan NY NY 10014
 County, City State Zip Code

Defendant 2: Paul Capurso
 First Name Last Name
union Trustees + Co-Chairman
 Current Job Title (or other identifying information)
395 Hudson Street
 Current Work Address (or other address where defendant may be served)
Manhattan NY NY 10014
 County, City State Zip Code

Defendant 3: Joseph A Geiger
 First Name Last Name
Trustees
 Current Job Title (or other identifying information)
395 Hudson Street
 Current Work Address (or other address where defendant may be served)
Manhattan NY NY 10014
 County, City State Zip Code

Defendant 4: David T. Meberg
 First Name Last Name
Management trustees
 Current Job Title (or other identifying information)
395 Hudson Street
 Current Work Address (or other address where defendant may be served)
Manhattan NY. NY. 10014
 County, City State Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: 395 Hudson Street NY NY 10014.

Date(s) of occurrence: 1993 to present

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

When I was giving in 1993 to become a Carpenter I learn that I join when there was a flood of corruption in the union local 257 which is now 157 and the District Council of Carpenters. I became a Steward under the new management of the government Denise Walse, ~~then~~ ⁱⁿ that I was giving jobs and taking off at very short time of work that could had last more then years of work most of the times, I never had the opportunity to work long enough to accumulate pension credits, because job where taken from me. There was a mob of leaders controlling who they wanted on job sites. I had learn even today 2019 there is still corruption in the District Council BA from 157 is under a law issue Criminal case for selling union cards. There is more to my claim that I didnt write in this claim. Thank you Richard Caban
 Richard Caban

I Richard Caban had a accident which prevent me to work for about ten year on the job Injury in Sometime 2006 of April 7.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

major back Surgery and My two knees surgery.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

?

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

7/1/2019
 Dated Richard
 First Name Middle Initial Last Name
84 Madison Street
 Street Address
Lynbrook NY. 11563
 County, City State Zip Code
917) 217-5017 richard.Cabana@verizon.net
 Telephone Number Email Address (if available)

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

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**NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS
BENEFIT FUNDS**

UNION

TRUSTEES

Joseph A. Geiger
Co-Chairman

Paul Capurso
Michael P. Cavanaugh
Graham McHugh
Michael Rodin
John Sheehy

David Stewart
Executive Director

395 Hudson Street
New York, NY 10014
Telephone: (212) 366-7300
Fax: (212) 366-7444

MANAGEMENT

TRUSTEES

David T. Meberg
Co-Chairman

John DeLollis
Kevin O'Callaghan
John O'Hare
Michael Salgo

June 14, 2019

Mr. Richard Caban
84 Madison Street
Lynbrook, NY 11563

Re: Pension Appeal Re Restoration of Forfeited Credit

Dear Mr. Caban:

The Appeals Committee of the Board of Trustees of the New York City District Council of Carpenters Pension Fund (the "Fund") has considered your request to disregard your Permanent Break-in-Service and to restore the 2.75 Vesting Credits that you permanently forfeited in 2010. After careful consideration of your request and the rules governing the Fund, the Appeals Committee has denied your appeal.

In accordance with Article 3, Section 3.3(b) of the New York City District Council of Carpenters Pension Plan (Amended and Restated Effective January 1, 2014) (the "Plan"), a Participant who has not attained Vested Status has a Permanent Break-in-Service if his consecutive One-Year Breaks-in-Service exceed the greater of (i) five; or (ii) the number of Vesting Credits with which he had been credited. Please note that the applicable Break-in-Service provision is the provision in the Plan in effect at the time that you ceased Covered Employment in 2010. However, in this case, the pertinent provision in the Plan in effect in 2010 is identical to the above-quoted provision in the current Plan.


As you are aware, you earned 2.75 Vesting Credits between 1994 and 2005. This was not sufficient to become Vested in your benefit. You needed at least 5 Pension Credits to become Vested. You then incurred five One-Year Breaks-in-Service between 2006 and 2010 when you did not earn at least one-quarter Vesting Credit in a calendar year. In order to earn at least one-quarter Vesting Credit in a calendar year, you were required to work at least 300 Hours of Covered Employment in a calendar year. (Plan, Sections 3.3(a)(2) and 3.2(b)(2)). In your case, and in accordance with Section 3.3(b) of the Plan, you incurred a Permanent Break-in-Service in 2010 since you had not attained Vested Status and your number of One-Year Breaks-in-Service exceeded five as of 2010.

The Committee reviewed your letter in support of your appeal. In response to your assertion of prior union corruption and favoritism, the Committee noted that the Plan is administered fairly and without favoritism or bias in strict accordance with the rules of the Plan and the requirements of the Employee

Retirement Income Security Act of 1974 ("ERISA"). While the Committee regrets that it cannot give you a favorable decision, the reasons asserted in your letter do not permit the Committee to make an exception to the clear rules of Section 3.3(b) of the Plan regarding Permanent Breaks-in-Service and, thus, the Committee denied your appeal.

Since the Committee has denied your appeal, you have the right to bring a civil suit under ERISA Section 502(a). Under the Fund's rules, any such suit must be commenced within 365 days from the date of this notice of denial, that being June 14, 2020. Any such action may only be filed in the United States District Court for Southern District of New York in New York County, New York. You also have the right to receive, upon written request to the Fund Office and free of charge, reasonable access to, and copies of all documents, records and other information relevant to your claim for benefits.

Sincerely,



Monica Schmidt for the Appeals Committee

ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-529-3863.